

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Erin Brokate	Team: Team # 2	CCRB Case #: 201115029	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 11/15/2011 11:25 AM	Location of Incident: Cedar Street and Broadway	Precinct: 01	18 Mo. SOL 5/15/2013	EO SOL 5/15/2013	
Date/Time CV Reported Tue, 11/15/2011 6:37 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 11/21/2011 1:48 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Nicholas Grenier	02006	932744	WARRSEC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT Luigi Pinello	00000	902910	WARRSEC
2. AC Thomas Purtell	00000	876860	PBMS

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Nicholas Grenier	Force: Det. Nicholas Grenier used physical force against § 87(2)(b)	

Case Summary

The following complaint was filed by § 87(2)(b) on November 15, 2011, via telephone at IAB. This complaint was forwarded to the CCRB on November 21, 2011, via IAB log number 11-52784 (Encl. 4).

- **Allegation A – Force: Detective Nicholas Grenier used physical force against § 87(2)(b)**

§ 87(2)(b), § 87(2)(g)

This case was deemed sensitive due to the release of the footage of the incident on the § 87(2)(b) website. § 87(2)(b) rejected mediation.

Results of Investigation

Video Footage

Video footage of this incident was posted on § 87(2)(b). In this footage, 02:43 minutes long, § 87(2)(b) first appears at 00:47 seconds. § 87(2)(b) is wearing a yellow rain jacket, has a bag and is holding white papers. She is seen shouting at officers who are standing behind a barricade. The officers are inside Zuccotti Park and § 87(2)(b) is standing outside Zuccotti Park. There is a man who is holding a flag in his hand and the male repeatedly tries to plant the flag inside the barricade. The man then tries to climb the barricade and get inside the barricade. As he does this, multiple officers grab him and pull him inside the barricade. The camera is shaky and there appears to be a struggle. § 87(2)(b) is seen standing and yelling at the barricade and then is seen lying on the ground with a crowd of people in front of her. § 87(2)(b) is yelling in pain and she is helped to her feet by many of the people in the crowd. There is no blood or visible injury on § 87(2)(b).

Civilian Statement

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b), 5'4" tall, 118 pound, white female with blonde hair and blue eyes.
- § 87(2)(b) was accompanied by § 87(2)(b), who was representing her attorneys from the firm of § 87(2)(b).

CCRB Testimony

§ 87(2)(b) provided a statement at the CCRB on March 2, 2012 (Encl. 6A-6E). On November 15, 2011, at approximately 11:25 a.m., § 87(2)(b) was at Cedar Street and Broadway in Manhattan. She was there as a part of the Occupy Wall Street Movement. § 87(2)(b) and numerous other individuals, whose names § 87(2)(b) did not know, were marching around the perimeter of the park. There were multiple uniformed officers standing inside of Zuccotti Park.

As § 87(2)(b) walked around the perimeter of the park she was holding a copy of a court order that she had been given by an attorney who was also demonstrating. The court order stated that the protestors were allowed to congregate inside Zuccotti Park. The order was valid for

November 15, 2011. However, despite this order, the officers still did not permit protestors inside the barricades.

§ 87(2)(b) saw a young man, whose name she did not know, holding an American flag. The young man stopped and attempted to climb over the barricade, which caused multiple officers to come together and attempt to block him from doing so. They did this by pushing the young man back. A large group gathered around the young man.

§ 87(2)(b) approached the area where the young man and the officers were standing. She was standing within one foot of the man. The man and the officers were still separated by a barricade.

§ 87(2)(b) held up the court order so the officers could see it and stated numerous times, “This is a court order.” As she was doing this, the man was still attempting to breach the barricade by climbing it.

Multiple uniformed officers, including an officer, identified through investigation as Detective Nicholas Grenier of Brooklyn North Warrant Squad, grabbed the man by his arms and clothing and pulled the man over the barricade. § 87(2)(b) did not attempt to physically interfere with the officers and the man and at no point did § 87(2)(b) attempt to breach the barricade. The officers were yelling at the individuals in the crowd to step back.

§ 87(2)(b) feared that the officers would hurt the man. She saw Det. Grenier take his arm and pull it back. Simultaneously, Det. Grenier made a fist and struck § 87(2)(b) in the face, causing her to flinch. She was struck once and Det. Grenier’s fist made contact with § 87(2)(b)’s face right under her right eye. As a result of this hit, § 87(2)(b) fell backward onto the street on her back. One of the individuals in the crowd caught her head and it did not make contact with the sidewalk. The way she landed on the sidewalk caused pain to her right hip.

§ 87(2)(b) was unsure of how long she was down on the ground. She was helped to her feet by various individuals in the crowd, whose names she did not know. Upon standing, § 87(2)(b) felt extreme pain in her face and she also felt very dizzy. She willed herself to go back into the crowd and again approached the barricade with the court order in her hands.

§ 87(2)(b) was able to stand in the crowd for only another thirty seconds. After that, § 87(2)(b) began to feel even more pain and dizziness and this caused her to sink down on the ground. Numerous individuals in the crowd assisted her and escorted her to a nearby bench where she was able to sit down. She was given ice and was attended to by a few medics on scene. § 87(2)(b) also began to feel extreme pain in her neck at this time. § 87(2)(b) then left the scene. § 87(2)(b) stated that she later obtained medical attention from a nearby hospital but was unable to recall which one.

Attempts to identify civilians

§ 87(2)(b) could not identify any of the protestors surrounding her. The individual who attempted to breach the barricade and plant the American flag inside Zuccotti Park, was not arrested or issued a summons as verified by databases and officer testimonies.

The individual who posted the video of the incident is unknown. § 87(2)(b) had no additional information for the username.

NYPD Statements:

Subject Officer: DETECTIVE NICHOLAS GRENIER

- *Det. Grenier is a § 87(2)(b)*
- *On November 15, 2011, Det. Grenier worked from 4:27 a.m. until 1 p.m. He was in uniform and assigned to the Occupy Wall Street demonstration located at Zuccotti Park in Manhattan. He was on foot and did not have a specific partner.*

Memo Book

Det. Grenier did not have any memo book entries regarding this incident (Encl. 8A-8B).

CCRB Testimony

Det. Grenier provided a statement at the CCRB on June 27, 2012 (Encl. 9A-9B). On November 15, 2011, at approximately 11:25 a.m., Det. Grenier was working at Zuccotti Park and was standing at the edge of the park, located at Cedar Street and Broadway in Manhattan. Det. Grenier and other officers from several commands had been given orders not to let any protesters inside the park. In order to do this, there were barriers set up around the perimeter of the park and the officers were patrolling the barriers. Around the barriers were hundreds of protestors who were walking around the park.

One of the male protesters, whose name Det. Grenier did not know, attempted to break through the barriers. Det. Grenier and other officers attempted to arrest this individual after he did this. Det. Grenier grabbed hold of the individual's backpack and other officers held onto Det. Grenier, in order to keep Det. Grenier from falling over the barrier.

As he was doing this, a female, later identified as § 87(2)(b) began thrusting a piece of paper directly in Det. Grenier's face. Det. Grenier was unable to recall if § 87(2)(b) said anything as she did this. Det. Grenier did not recall if he gave any direct orders to § 87(2)(b) but stated that he did issue orders to the crowd to stay back.

While Det. Grenier was attempting to pull the man in order to place him under arrest, other members of the crowd began pulling the man back towards the crowd. Det. Grenier did not recall if § 87(2)(b) helped with this and did not recall if § 87(2)(b) attempted to physically intervene in the arrest of the man. Eventually, Det. Grenier lost his grip on the man and he slipped back into the crowd and then departed from the scene.

Det. Grenier stumbled back onto his feet and at this time he saw § 87(2)(b) fall backwards and sit down on the sidewalk and begin to cry. After a few seconds, § 87(2)(b) very quickly got back up on her feet. Det. Grenier did not know what made § 87(2)(b) fall and at no time did he make a closed fist and strike § 87(2)(b) in the face. He did not believe that he unintentionally hit § 87(2)(b).

After § 87(2)(b) fell, some of the individuals in the crowd began accusing Det. Grenier of hitting § 87(2)(b) however he was sure he had not. He did not see any injuries on § 87(2)(b) and he did not interact with § 87(2)(b) after she fell. § 87(2)(b) was escorted away from the scene by other individuals in the crowd.

While reviewing the video footage for this incident, Det. Grenier was able to identify Lieutenant Luigi Pinello and Assistant Chief Thomas Purtell as officers who were on scene and assisting him during this incident.

Witness Officer: ASSISTANT CHIEF THOMAS PURTELL

- Assistant Chief Purtell is a § 87(2)(b)
- Assistant Chief Purtell was unable to recall his exact tour on November 15, 2011. He did recall that he was in uniform, assigned to Zuccotti Park and was working on foot. Assistant Chief Purtell did not have any specific partner.

Memo Book

Assistant Chief Purtell does not keep a memo book.

CCRB Testimony

Assistant Chief Purtell provided a statement at the CCRB on January 14, 2013 (Encl. 10A-10B). On November 15, 2011, at approximately 11:25 a.m., Assistant Chief Purtell was working at Zuccotti Park. The night before, the protesters in the park had been evicted and after the people in the park had been cleared, sanitation was working to clean the park and clear it of all unclaimed property. Barricades had been set up around the perimeter of the park and Assistant Chief Purtell was standing inside the barriers of the park and was attempting to keep people from breaching the barricades and entering the park.

Assistant Chief Purtell saw a man with a flag in his hand. This individual was attempting to plant the flag inside of the park and was reaching over the barriers in order to this. The man was also climbing up the barriers and attempting to enter the park. Assistant Chief Purtell observed this from about 50 to 100 feet away.

There was a crowd around the man that grew bigger as the man was attempting to climb over the barrier. Assistant Chief Purtell did not independently recall who § 87(2)(b) was and did not see any officer use physical force against a woman or punch a woman in the face. However, when Assistant Chief Purtell reviewed the video footage from YouTube, he was able to recall § 87(2)(b). The man with the flag kept attempting climb over the barrier and § 87(2)(b) was yelling at the officers and showing the officers pieces of paper. The man finally got over the barrier and when he did, numerous officers that were standing around the area were able to grab the man. However, the man was able to escape the grasp of the officers and was able to get over the barrier to the street side.

Assistant Chief Purtell did not grab the man and did not recognize any of the other officers that were attempting to grab the man. Assistant Chief Purtell did recall § 87(2)(b) yelling and attempting to assist the man in evading arrest. Assistant Chief Purtell did not see § 87(2)(b) make any physical contact with the officers and did not see any officers make physical contact with § 87(2)(b).

Assistant Chief Purtell did not know Det. Nicholas Grenier, nor did he recognize Det. Grenier from the video. Assistant Chief Purtell did not see Det. Grenier strike § 87(2)(b) in the face. Assistant Chief Purtell did not recall seeing § 87(2)(b) fall and did not know what caused her to fall. He did not recall seeing her get up and then stumble again. Assistant Chief Purtell decided

not to pursue this individual's arrest upon his discretion, because he did not want to escalate the matter any further with the protesters.

Officer not interviewed

Lt. Luigi Pinello was not interviewed regarding this incident. Lt. Pinello was scheduled to be interviewed on September 18, 2012, however he was assigned to the presidential detail and was unable to appear. He was rescheduled for October 5, 2012, however, Lt. Pinello was not notified through appearance control. Lt. Pinello was rescheduled for October 9, 2012, however, Lt. Pinello did not receive the notification that he was to appear the CCRB. Lt. Pinello retired from the NYPD on October 10, 2012, therefore, no statement could be obtained (Encl. 14G).

Medical Records

During her official interview, § 87(2)(b) was given a HIPAA form so that the CCRB could subpoena a copy of her medical records for the treatment she received following this incident. However, § 87(2)(b) failed to return this HIPAA form to the CCRB. From March 7, 2012 until July 26, 2012, three follow up phone calls were placed to § 87(2)(b)'s attorney's office in an attempt to obtain a HIPAA form. However, these phone calls were not returned and § 87(2)(b)'s medical records were never obtained.

Status of Civil Proceedings

- § 87(2)(b) filed a notice of claim with the City of New York on February 10, 2012 regarding this incident. § 87(2)(b) alleged that on November 15, 2012, she was present at Zuccotti Park in Manhattan. The park was barricaded and § 87(2)(b) asked multiple officers for entry into the park, based upon a court order, which allowed civilians inside the park. A uniformed officer, who is not named, reached over the barricade and punched § 87(2)(b) once in the face. § 87(2)(b) was not arrested nor had she done anything illegal prior to the officer punching her. § 87(2)(b) was escorted from the scene by civilians and later received medical treatment at a nearby emergency room. The punch caused § 87(2)(b) to sustain injuries that have prevented her from working and required ongoing medical treatment. § 87(2)(b) is seeking \$100,000 in damages. There was a 50H hearing regarding this case held on § 87(2)(b) (Encl. 12A-12E).

Civilian Criminal History

- Office of Court Administration records reveal no criminal convictions for § 87(2)(b)

Civilian CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (Encl. 3).

Subject Officer CCRB History

- Det. Grenier has been a member of the service for nine years and there are no substantiated CCRB allegations against him (Encl. 2).

Conclusion

Identification of Subject Officer

Det. Grenier acknowledged his interaction with § 87(2)(b)

Investigative Findings and Recommendations

Allegation A – Force: Detective Nicholas Grenier used physical force against § 87(2)(b)

It is disputed whether Det. Grenier used physical force against § 87(2)(b)

According to § 87(2)(b) Det. Grenier struck her once in the face with a closed fist. Det. Grenier denied this, noting that he was attempting to apprehend the individual that breached the barricade and that § 87(2)(b) was shoving a court order in his face at the same time. Det. Grenier did not believe that he inadvertently struck § 87(2)(b) as he struggled with the individual. Assistant Chief Purtell, who was also present during this incident, denied witnessing Det. Grenier use physical force against § 87(2)(b)

Although § 87(2)(b) stated that she was punched by Det. Grenier, the video footage of this incident does not show any such action. § 87(2)(b) also stated that she received medical treatment following this incident. However, she did not provide the CCRB with such documentation and did not sign a HIPAA form so that her medical records could be accessed. However, it is noted in § 87(2)(b)'s notice of claim that she received medical attention.

§ 87(2)(b), § 87(2)(g)

Team: _____

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Investigator: _____	_____	_____
Signature	Print	Date

Supervisor: _____	_____	_____
Title/Signature	Print	Date

Reviewer: _____	_____	_____
Title/Signature	Print	Date

Reviewer: _____	_____	_____
Title/Signature	Print	Date